TRANSCRIPT OF RECORD
VOL. I

****

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1971

NO. _____

STATE OF FLORIDA on the relation of AUSTIN LLOYD and RUBY LLOYD, his wife,

Petitioners,

-vs-

THE CITY OF FORT PIERCE, a municipal corporation,

Respondent.

Petition for Writ of Certiorari to the Circuit Court of the 19th Judicial Circuit in and for St. Lucie County, Florida.

****

IN THE SUPREME COURT OF THE
UNITED STATES

CASE NO.

STATE OF FLORIDA on the relation
of AUSTIN LLOYD and RUBY LLOYD,
his wife,

Petitioners,

-vs-

THE CITY OF FORT PIERCE, a
municipal corporation,

Respondent

* * * * * * * * * * * * * * * * * * *

STIPULATED RECORD ON APPEAL

Philip G. Nourse
Attorney for Petitioners
133-A North 4th Street
Fort Pierce, Florida, 33450

Charles R. P. Brown
Attorney for Respondent
P. O. Box 1418
Fort Pierce, Florida, 33450

RECORD ON APPEAL

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IN THE SUPREME COURT OF THE
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STATE OF FLORIDA on the relation
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Petitioners

-vs-

THE CITY OF FORT PIERCE, a
municipal corporation,

Respondent

* * * * * * * * * * * * * * * * * * *

S T I P U L A T I O N

Comes now the Petitioners, STATE OF FLORIDA on the relation of AUSTIN LLOYD and RUBY LLOYD, his wife, through their undersigned attorney, PHILIP G. NOURSE and the Respondent, THE CITY OF FORT PIERCE, a municipal corporation, through its undersigned attorney, CHARLES R. P. BROWN, and pursuant to Rule 21 of Rules of the Supreme Court of the United States of 1967, stipulate that "all portions of the record may be omitted as unnecessary for the determination of the petition or of the writ, if it be granted", except the following facts which are a part of said record, to-wit:

1. That the Petitioners, AUSTIN LLOYD and RUBY LLOYD, his wife, are natural persons, citizens of the State of Florida, and of the United States of America, and are over the age of 21 years.

2. That the Respondent, THE CITY OF FORT PIERCE, is a municipal corporation duly organized and existing under the laws of the State of Florida.

3. That on the 8th day of August, 1968, the original litigation was commenced by the Petitioners filing a Petition for Issuance of Alternative Writ of Mandamus in the Nineteenth Judicial Circuit in and for St. Lucie County, State of Florida, Case No. 58-500, requiring the Respondent to issue to the Petitioners, a building permit for their proposed real estate improvement.

4. That on the 2nd day of December, 1968, the Alternative Writ of Mandamus was filed in Circuit Court Minute Book 51 at page 347 of the public records of St. Lucie County, Florida.

5. That on the 27th day of March, 1969, the return to the Alternative Writ of Mandamus was filed.

6. That the question posed for decision by the Circuit Court was the constitutionality of Section 106.2 of Municipal Ordinance #E-398 of the City of Fort Pierce, which among other things, recites as follows, to-wit:

"106.2 Qualification of Applicant.

(b) Application for (BUILDING) permits will be accepted ONLY from CONTRACTORS CURRENTLY licensed in their respective field and for whom no revocation or suspension of license is pending; except that a sole owner may make application for permit and supervise the work in connection with the construction, maintenance, alterations or repair of a single family residence or two family residence for his own use and occupancy and not intended for sale. The construction of more than one residence by an individual owner in any

12 month period shall be construed as contracting, and such owner shall then be required to be licensed as a contractor. Such licensed contractor or owner shall be held responsible to the building official for the proper supervision and conduct of all work covered thereby.

An owner of any building may make application for permit to repair, remodel any building when nonstructural work is involved." (Emphasis supplied)

7. That Petitioners own a small, single-story, flower shop located in a commercially zoned area, to which they desired to add a small, private, store room, and for which they sought the controversial building permit. Neither of the Petitioners hold a Contractor's License, but the Petitioner, AUSTIN LLOYD, has previously placed improvements on real estate in Fort Pierce, Florida, off and on for 30 years, either by doing the work himself or supervising the necessary craftsmen, who did the work involved. Mr. Lloyd, on these occasions, complied with the building codes and zoning ordinances in effect at the time of said construction and in this instance had procurred a zoning variance and was intending to comply with all building code requirements in effect, which included compliance with any sanitary or safety requirements set out in the codes.

8. That the sole obstacle preventing the Petitioner from obtaining this building permit, is the existence of the ordinance referred to above which requires anyone doing this type of work to hold a Contractor's License except as set forth in said ordinance in reference to single and two family residences. Mr. Lloyd is a business man of many years

standing who does not hold a Contractor's License and resents being required to employ a Contractor to do work that he could do himself on his own property.

9. That on the 28th day of January, 1970, this case was submitted on a Stipulation of Facts to the Circuit Court of St. Lucie County, Florida, for decision.

10. That on the 6th day of October, 1970, the Circuit Court through the Honorable C. Pfeiffer Trowbridge, discharged the Alternative Writ of Mandamus when he handed down the decision of the Court, a copy of which is attached hereto, marked Appendix "A", and by reference made a part hereof.

11. That on the 8th day of October, A.D. 1970, the lower court's decision was appealed to the Fourth District Court of Appeal in and for the State of Florida, it being the next highest Court in the State of Florida.

12. That on the 17th day of March, A. D. 1971, the Fourth District Court of Appeals of the State of Florida affirmed the Order of the Circuit Court dated October 6, 1971 and on April 27, 1971 issued its Mandate thereon, copies of which said Decision and Mandate are attached hereto, marked Appendix "B" and by reference made a part hereof.

13. That on or about the 11th day of May, A. D. 1971 a Petition for Writ of Certiorari was filed in the Supreme Court of Florida asking the said Court to reverse both lower courts.

14. That on the 22nd day of June, 1971, the decision of the Florida Supreme Court was filed in Circuit Court Minute Book 70 at page 400 of the public records of St. Lucie County, Florida, denying said Writ of Certiorari, a copy of said decision being attached hereto, marked Appendix "C" and by reference made a part hereof.

DATED this the 26th day of August, A. D. 1971.

Respectfully submitted,

Philip G. Nourse, Attorney for
Petitioners Austin Lloyd and
Ruby Lloyd, his wife
133-A North 4th Street
Fort Pierce, Florida, 33450

THE CITY OF FORT PIERCE

By Charles R. P. Brown

Charles R. P. Brown, Attorney for
Respondent
P. O. Box 1418
Fort Pierce, Florida, 33450

APPENDIX "A"

OPINION

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT, IN AND FOR ST. LUCIE COUNTY, FLORIDA
CASE NO. 68-500

STATE OF FLORIDA on the relation of AUSTIN LLOYD and RUBY LLOYD, his wife,

Plaintiff,

-vs-

THE CITY OF FORT PIERCE, a municipal corporation; et al,

Respondents.

ORDER

This cause came on to be heard October 6, 1970, upon the Alternative Writ of Mandamus and the Return thereto and the Court having duly considered the same;

IT IS ORDERED that, the ordinance in question not being unreasonable so as to be unconstitutional or invalid under the law, the Alternative Writ of Mandamus is discharged and the cause is dismissed.

DONE and ORDERED at Stuart, Florida, this October 6, 1970.

/s/ C. Pfeiffer Trowbridge
CIRCUIT JUDGE

Copies furnished:

Philip Nourse, Esq.
C.R.P. Brown, Esq.

FILED AND RECORDED
ST. LUCIE COUNTY, FLA.
RECORD VERIFIED
Circuit Ct. Min.
'70 OCT 8 AM 11:16
/s/ M. Neil
ROGER POITRAS
CLERK CIRCUIT COURT

Circuit Ct. Min. Book 65 page 39

APPENDIX "B"

MANDATE

from

DISTRICT COURT OF APPEALS OF THE STATE OF FLORIDA. No. 70-855 (No. 68-500)

FOURTH DISTRICT

TO THE HONORABLE, the JUDGES OF:
Circuit Court for the Nineteenth Judicial Circuit for the County of St. Lucie.

GREETINGS:

WHEREAS, lately, in a cause wherein:

STATE OF FLORIDA on the relation of AUSTIN LLOYD et ux., were Plaintiffs

and

THE CITY OF FORT PIERCE, etc., et al, were respondents

the Order of said court was rendered October 8, 1970, as appears by inspection of the record duly brought to the said District Court of Appeal by virtue of proceedings agreeable to law;

AND, WHEREAS, the said District Court of Appeal rendered its decision and judgment, a copy of which is attached

hereto and made a part hereof, on March 17, 1971;

THEREFORE, it is:

ORDERED that appellees do have and recover of and from appellants costs in this behalf expended; and

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause as ought to be had, the said Order of the said Circuit Court notwithstanding.

WITNESS, The Honorable SPENCER C. CROSS, Chief Judge of the said District Court and the seal of said Court at West Palm Beach, this 27th day of April, 1971.

/s/ Evelyn R. Flack, Clerk
DISTRICT COURT OF APPEAL
FOURTH DISTRICT, FLORIDA

Seal of the District Court of Appeal

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT JANUARY TERM 1971 CASE NO. 70-855.

AUSTIN LLOYD and RUBY LLOYD his wife, Appellants,

v.

THE CITY OF FORT PIERCE, a municipal corporation; FRANK W. HOGAN, individually and as Building Official for the City of Fort Pierce; MILTON TUCKER, individually and as Mayor of the City of Fort Pierce; LEE S. NELSON, individually and as Commissioner of the City of Fort Pierce; JACKIE CAYNON, individually and as Commissioner of the City of Fort Pierce; SAM LAWDER, individually and as Commissioner of the City of Fort Pierce; MERLE E. MORRIS, individually and as Commissioner of the City of Fort Pierce,

Appellees.

Decision filed March 17, 1971.

Appeal from the Circuit Court for St. Lucie County; C. Pfeiffer Trowbridge, Judge.

Philip G. Nourse, Fort Pierce, for appellants.

Charles R. P. Brown of Brown and Alderman, Fort Pierce, for appellees.

PER CURIAM.

Affirmed.

WALDEN, REED and OWEN, JJ., concur.

FILED AND RECORDED
ST. LUCIE COUNTY, FLA.
RECORD VERIFIED
Circuit Ct. Min.
'71 APR 28 AM 8:07
/s/ M. Neil
ROGER POITRAS
CLERK CIRCUIT COURT

Circuit Ct. Min. Book 69 230

APPENDIX "C"

OPINION

IN THE SUPREME COURT OF
FLORIDA
JANUARY TERM, A. D. 1971
TUESDAY, JUNE 1, 1971

AUSTIN LLOYD and RUBY LLOYD, his wife,

Petitioners,

v.

THE CITY OF FORT PIERCE, a municipal corporation, et al.,

Respondents.

CASE NO. 41,127

68-500
DISTRICT COURT OF APPEAL,
FOURTH DISTRICT

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

ROBERTS, C. J., ERVIN, CARLTON,

McCAIN and DEKLE, JJ., concur.

cc: Honorable Evelyn R. Flack,
Clerk
Honorable Roger Poitras,
Clerk
Honorable Philip G. Nourse
Messrs. Brown and Alderman

A True Copy

TEST:
/s/ Sid J. White
Clerk Supreme Court
(Supreme Court Seal)

FILED AND RECORDED
ST. LUCIE COUNTY, FLA.
RECORD VERIFIED
Circuit Ct. Min.
'71 JUN 22 PM 3:02
/s/ M. Neil
ROGER POITRAS
CLERK CIRCUIT COURT

Circuit Ct. Min Book 70 400

APPENDIX "D"

ARGUMENT, SUBMISSION AND DOCKET

CASE NO. 68 500

Re: ASSIGNED TO
JUDGE TROWBRIDGE, 1/1/69

ATTORNEYS	PARTIES	STYLE OF CASE
Philip Nourse	State of Fla. on the relation of Austin Lloyd & Ruby Lloyd, his wife,	
~~Spencer Gilbert~~ Charles R.P.Brown	vs. City of Ft. Pierce - et al.	Mandamus

DATE '68 PROGRESS OF CASE PAID 8-8-68 AMT 17--

Aug 8 Petition for Issuance Alternate write of Mandamus etc. docket Index.

9 Summons Issued: LIBRARY ASSESSMENT CHECK NO.1894
City of Ft. Pierce (Ser. 8-9-68)
Milton Tucker (Ser. 8-9-68)
Frank W. Hogan (Ser. 8-9-68)
Lee S. Nelson (Ser. 8-9-68)
Sam Lauder (Ser. 8-9-68)
Jackie Canyon (Ser. 8-9-68)
Merele E. Morris (Ser. 8-9-68)

" 15 Motion to quash Petition
15 Motion to Strike
26 Notice of Hearing
27 Notice of Taking Deposition
Sept 4 Order setting Pre-Trial Conf.
Oct 1 Deposition of Frank Hogan
Dec 2 Petition for Issuance of Atternative Writ et al
2 Order (cc MB 51 Pg. 346)
2 Alternative Writ of Mandamus (CCMB 51 Pg. 347)
17 Motion to Quash Petition for issuance of Alt. Writ, et al.
17 Motion to Strike
17 Motion to Strike Sham Pleadings
17 Motion to Disqualify Counsel
31 Notice of Hearing

1969
Jan 30 Order (CC MB 52 Pg. 453)
30 Letter to Spencer Gilbert from Philip G. Nourse
Feb 17 Motion To Strike
17 Motion to Quash Petition, et als.

DATE 1969	PROGRESS OF CASE
Mar 3	Notice of Hearing
18	Order Denying Motion to Quash & Motion to Strike (CC MB 54 Pg. 55)
27	Return
Aug 28	Motion to set trial
Dec 8	Order Setting Non Jury Case (2-2-70 #2-9:30 AM)
1970	
Jan 16	Motion & Notice of Withdrawal of Councel & Appearance of Counsel & Order (CC MB 59 Pg 358)
28	Stipulation of Facts
Feb 5	Memorandum of Law
Mar 3	Defendant's Brief
Oct 8	Order - dismissing (CC MB 65 Pg. 39)
8	Letter from Philip G. Nourse
8	Notice of Appeal (CC MB 65 Pg. 41)
8	Ctf. Copy of Notice of Appeal with check for $25.00 mailed to: Appellant Court, West Palm Beach, Fla.
9	Letter from Philip G. Nourse to Judge Trowbridge
9	Letter from Charles R.P. Brown to Judge Trowbridge
13	Assignment of Errors
13	Directions to Clerk
Oct 16	Letter from Appellant Court acknowledging receipt of $25.00 & Notice of Appeal
1971	
Jan 18	Stipulation
18	Order (Extending Time) (CC MB 67 Pg 167) (Ctf. Copy sent to Appellant Court)
22	Appeal File Mailed to Appellant Court - also Ctf. copy of Letter).
Apr 28	Mandate & Decision (CC MB 69 Pg 229)
Jun 22	Order from Supreme Court (CC MB 70 Pg. 400)

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT, IN AND FOR ST. LUCIE COUNTY, FLORIDA.
NO. 68-500

STATE OF FLORIDA on the relation of AUSTIN LLOYD and RUBY LLOYD, his wife,

Plaintiff,

-vs-

THE CITY OF FORT PIERCE, a municipal corporation, et al.,

Respondents.

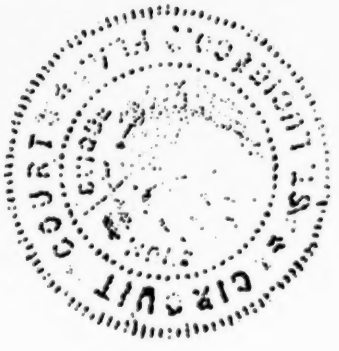
I, ROGER POITRAS, Clerk of the Circuit Court of the 19th Judicial Circuit, in and for St. Lucie County, Florida, do hereby certify that the foregoing pages contain a full, true and complete copy of the following papers: Stipulated Record, Argument, Submission and Progress Docket, Opinion of the Circuit Court of the Nineteenth Judicial Circuit in and for St. Lucie County, Florida; Mandate from the District Court of Appeals of the State of Florida; and Opinion from the Supreme Court of Florida;
in the above cause in this Court as full, true and complete as the originals of the same now remain in my office.

In Testimony whereof, I hereunto subscribe my name and affix the seal of the said Circuit Court of the 19th Judicial Circuit in and for St. Lucie County, Florida, on this the

27th Day of August A. D. 1971.

ROGER POITRAS, Clerk of the
Circuit Court of the 19th
Judicial Circuit in and for
St. Lucie County, Florida.

By Roger Poitras



CERTIFICATE OF SERVICE

I hereby certify that copies of this Stipulated Record on Appeal have been served upon, CHARLES R. P. BROWN, Attorney for the Respondent, City of Fort Pierce, Post Office Box 3779, Fort Pierce, Florida, 33450, and upon the Circuit Court of the 19th Judicial Circuit, in and for St. Lucie County, Florida, St. Lucie County Court House, Fort Pierce, Florida, 33450; THE DISTRICT COURT OF APPEAL FOURTH DISTRICT OF FLORIDA, P. O. Box A, West Palm Beach, Florida, and to THE SUPREME COURT OF FLORIDA, Supreme Court Building, Tallahassee, Florida, by mail on this the 15th day of September A.D. 1971, in accordance with Rule #33 of the United States Supreme Court Rules.

Philip G. Nourse
Attorney for Petitioners
133-A North 4th Street
Fort Pierce, Florida, 33450